

HONORABLE JUDGE RICHARD A. JONES
MAGISTRATE JUDGE MARY ALICE THEILER

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE**

JASON LEE SUTTON,

Plaintiff,

v.

MIKE HATHAWAY, et al.,

Defendants.

NO. 2:19-cv-01500-RAJ-MAT

ANSWER TO PLAINTIFF'S SECOND
AMENDED COMPLAINT AND JURY
DEMAND

The Defendants respectfully file the following Answer to Plaintiff's Amended Complaint.
ECF No. 27.

Under Federal Civil Rule 8(b), Defendants generally deny each allegation of fact in the Plaintiff's Second Amended Complaint unless the allegation of fact is expressly admitted. Defendants will not respond to legal arguments contained in the Plaintiff's Second Amended Complaint and will deny them if it is unclear if the Plaintiff is asserting a factual or legal claim.

I. INTRODUCTION

Defendants neither admit nor deny the information contained in this section of the Amended Complaint, as it appears to summarize the Plaintiff's claims against the Defendants and calls for legal conclusions.

II. JURISDICTION

Defendants admit this Court has jurisdiction over the claims raised in Plaintiff's complaint.

III. VENUE

Defendants admits venue in this Court is appropriate.

IV. PARTIES

Defendants admit they have been named as parties to this lawsuit and at all times related to the claims in the complaint were acting within the scope of their employment with the Washington state Department of Corrections.

V. ADMINISTRATIVE PROCEEDINGS

Defendants admit Plaintiff has engaged in filing a tort claim pursuant to Washington state law and has also filed grievances related to some of the claims in her complaint. Defendants are currently without sufficient information to either admit or deny whether Plaintiff has fully exhausted all of her administrative remedies with respect to each claim, and against each Defendant.

VI. STATEMENT OF FACTS

20. Admit.

21. Admit.

22. Admit.

23. Defendants admit Plaintiff's housing classification records speak for themselves.

24. Defendants admit Plaintiff's medical records, including medical kites, speak for themselves. Defendants deny the remaining allegations in this paragraph of the complaint.

25. Deny.

26. Deny.

27. Deny.

28. Deny.

1 29. Defendants admit Plaintiff's medical records, including medical kites, speak for
2 themselves.

3 30. Defendants admit Plaintiff's medical records, including medical kites, speak for
4 themselves. Defendants deny the remaining allegations in this paragraph of the complaint.

5 31. Defendants admit Plaintiff's medical records, including medical kites, speak for
6 themselves.

7 32. Deny.

8 33. Defendants have insufficient information to either admit or deny the claims made
9 in this paragraph of the complaint and therefore deny.

10 34. Defendants have insufficient information to either admit or deny the claims made
11 in this paragraph of the complaint and therefore deny.

12 35. Deny.

13 36. Admit DOC staff do not disclose PREA investigation information nor inmate
14 criminal history to other inmates. Deny remaining allegations in this paragraph of the complaint.

15 37. Deny.

16 38. Deny.

17 39. Admit Plaintiff's request to be housed with Kimbler was granted. Deny
18 Defendants were aware of any potential victimization regarding either inmate.

19 40. Admit DOC staff do not disclose PREA investigation information nor inmate
20 criminal history to other inmates. Deny remaining allegations in this paragraph of the complaint.

21 41. Defendants have insufficient information to either admit or deny the claims made
22 in this paragraph of the complaint and therefore deny.

23 42. Defendants have insufficient information to either admit or deny the claims made
24 in this paragraph of the complaint and therefore deny.

25 43. Defendants admit Plaintiff's medical records, including medical kites, speak for
26 themselves. Defendants deny the remaining allegations in this paragraph of the complaint.

1 44. Admit PREA Case Number HQ 19-18855 records speak for themselves.

2 45. Admit PREA Case Number HQ 19-18855 records and inmate housing records
3 speak for themselves.

4 46. Admit PREA Case Number HQ 19-18855 records and inmate housing records
5 speak for themselves.

6 47. Admit PREA Case Number HQ 19-18855 records and inmate housing records
7 speak for themselves.

8 48. Defendants have insufficient information to either admit or deny the claims made
9 in this paragraph of the complaint and therefore deny.

10 49. Admit PREA Case Number HQ 19-18855 records and inmate housing records
11 speak for themselves.

12 50. Defendants admit Plaintiff's medical records, including medical kites, speak for
13 themselves. Defendants deny the remaining allegations in this paragraph of the complaint.

14 51. Defendants admit Plaintiff filed grievances related to her claims of HRT denial,
15 the grievance records speak for themselves.

16 52. Defendants admit Plaintiff's medical records, including medical kites, and
17 grievance records speak for themselves. Defendants deny the remaining allegations in this
18 paragraph of the complaint.

19 53. Defendants admit Plaintiff's medical records, including medical kites, speak for
20 themselves.

21 54. Defendants admit Plaintiff's medical records, including medical kites, speak for
22 themselves.

23 55. Defendants admit Plaintiff's medical records, including medical kites, and
24 grievance records speak for themselves. Defendants deny the remaining allegations in this
25 paragraph of the complaint.
26

1 56. Defendants admit Plaintiff's medical records, including medical kites, speak for
2 themselves.

3 57. Defendants admit Plaintiff's medical records, including medical kites, speak for
4 themselves. Defendants deny the remaining allegations in this paragraph of the complaint.

5 **VII. CLAIMS/PRAYER FOR RELIEF**

6 Defendants deny all allegations listed in these sections of Plaintiff's complaint and deny
7 Plaintiff is entitled to any of the relief set forth in these sections of the complaint.

8 **VIII. AFFIRMATIVE DEFENSES**

9 Having answered the allegations of Plaintiff's Second Amended Complaint, and by way
10 of further answer and affirmative defense, Defendants affirmatively allege:

11 1. Plaintiff has failed to state a claim upon which relief can be granted, because she
12 has not alleged facts that rise to the level of a civil rights violation under 42 U.S.C. § 1983, the
13 ADA or any Washington state claims.

14 2. All acts allegedly done by the Defendants with respect to Plaintiff were done in
15 the reasonable belief that they were in accordance with the Federal Constitution, and the laws of
16 the state of Washington and the United States. Defendants also acted pursuant to published
17 policies and field instructions, which they could have reasonably believed were constitutional.
18 Defendants are entitled to qualified immunity from damages.

19 3. Defendants reserve the right to allege additional affirmative defenses after the
20 completion of discovery.

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IX. JURY DEMAND

Should this matter proceed to trial, Defendants demand that a jury determine all issues of fact.

RESPECTFULLY SUBMITTED this 6th day of August, 2020.

ROBERT W. FERGUSON
Attorney General

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